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CLEARINGHOUSE RULE 97-095

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. Section DOC 304.03 (1) should be redrafted as follows: “An inmate is eligible to participate in a secure work program if the inmate meets the requirements under s. DOC 304.04.”

b. In s. DOC 304.02, the phrase “Department of Corrections” should be replaced by the phrase “department of corrections.”

c. In the first sentence of s. DOC 304.03 (2), the second “the” should be eliminated and replaced by “an eligible.” In the second sentence, “shall be allowed to” should be replaced by “may.”

d. It is suggested that s. DOC 304.04 (1) and (2) be combined into a single subsection as follows: “An inmate is eligible to participate in the secure work program if any of the following apply:

(a) The inmate has a security classification of medium security, medium outside security with supervision, minimum security or minimum security-community residential confinement under s. DOC 302.12 (1) (c) to (f).

(b) The inmate is an intensive sanction inmate who has been sanctioned back to prison or is a probationer or parolee who is being held in custody as an alternative to revocation.”

e. In s. DOC 304.05 (2), “but are not limited to” should be eliminated. [See s. 1.01 (7) (c), Manual.]

f. In s. DOC 304.05 (3), “be required to” should be eliminated.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. DOC 304.04 (1), the reference to security categories in s. DOC 302.12 should be more specific. See comment 2. d., above, for a way to make the reference more specific.

b. In s. DOC 304.04 (3), the reference to “DOC 303” should be to “ch.,” not to “s.” DOC 303. In addition, the reference should be to a specific section within the chapter, if possible. See, also, the analysis of the rule. Should the appropriate section in ch. DOC 303 be amended, as well?

c. In s. DOC 304.06, it appears that a cross-reference should be provided for the reference to “pay ranges 1 through 3.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section DOC 304.03 (4) provides that an inmate may be assigned to any one secure work crew assignment for a maximum of 60 work days. Does this mean 60 consecutive work days? Does it mean 60 work days in a given period? Does it mean 60 work days during the entire sentence of an inmate?

b. As directed by s. 303.063 (2), Stats., s. DOC 304.05 (3) requires inmates who are participating in secure work program assignments to wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution. While the rule meets the letter of the statutory requirement, one may infer that the Legislature intended that the rule be more specific; otherwise, the statute itself could simply require inmates to wear distinctively colored outerwear.